

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL CONTEMPT PETITION NO.18 OF 2006

Shri.Laxmandas Uttamchand Ahuja

...Petitioner

Vs.

State of Maharashtra & Ors.

...Respondents

Mr.Dnyaneshwar Deshmukhy for the Petitioner.

Mrs.P.H.Kantharia, A.G.P. for the Respondent-State.

**CORAM :- B.H.MARLAPALLE &
NARESH H.PATIL,JJ.**

DATE :- 19TH SEPTEMBER,2006

P.C.

1. Heard Mr.Deshmukh, the learned Counsel for the
Petitioner and Mrs.Kantharia, the learned A.P.P.

2. It is alleged by the Petitioner that
Respondent No.3 had filed a Criminal Complaint against
the Petitioner and others in respect of the offences
punishable under section 323,504,506 of Indian Penal
Code and the said complaint came to be dismissed by
the learned Judicial Magistrate, First class,
Malshiras, Dist.Solapur on 13th May, 2005. The
complaint was verified on 27th July, 1998 by
Respondent No.3 and the verification was taken on 27th
July, 2005. Accused Nos.1 to 5 had assaulted the
Complainant i.e. the present Respondent No.3 and the
Accused No.1 had slapped. The present Petitioner was
impleaded as Accused No.5 in the said complaint. The
learned Counsel for the Petitioner invited our
attention to application filed in S.T.C.No.970 of 196

filed against Respondent No.3 and in which Respondent No.4 had acted as an Advocate of the Accused. It was stated in the said application dated 26th September, 1998 that Respondent No.3 was not well and it was stated therein that the accused was not well and therefore, he could not remain present in the Court.

3. It is stated by the learned Counsel for the

Petitioner that either the adjournment application filed in S.T.C.No.970 of 2006 was false or the verification made by the Respondent No.3 in the complaint against Petitioner which was subsequently dismissed was false. He also referred the judgment in the case of **Murray & Co. Vs. Ashok Kr.Newata and Another, (2000)2 SCC 367.** In that case a false affidavit came to be filed before the Hon'ble Supreme Court stating that the property in question had not been sold by the Respondent in compliance with the order of injunction issued by High Court and therefore, the Apex Court held that such a false statement amounted to Contempt of Court as it interfered with due course of justice.

4. We have considered the provisions of section

2(c) of the Contempt of Courts Act, 1971 and we are satisfied that the present case does not fall in the ambit of the same. It cannot be as a matter of certainty that Respondent No.3 was not present before the Court at Malshiras, at any time on 20th June, 1998 and therefore, the adjournment application was filed

on his behalf by Respondent No.4 and in any case, the said position regarding the adjournment needs to be verified by due process of law. Even prima facie, there is no case to take cognizance for contempt within the meaning of section 2(c) of the Contempt of Courts Act, 1971 and hence, the Petition fails at the threshold.

5. Petition is hereby dismissed.

(NARESH H.PATIL,J.)

(B.H.MARLAPALLE,J.)